(2)

No. 99-898

Supreme Court, U.S.
FILED
DEC 22 1999

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1999

CITY OF CHICAGO, *et al.*,

Petitioner,

v.

DONNA E. SHALALA, *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNTIED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

BRIEF OF AMICUS CURIAE CITY OF NEW YORK IN SUPPORT OF THE PETITION

MICHAEL D. HESS,
Corporation Counsel of the
City of New York,
Attorney for Amicus Curiae,
100 Church Street,
New York, New York 10007.
(212) 788-1070

LEONARD J. KOERNER,*
RONALD E. STERNBERG,
of Counsel.
*Counsel of Record

December 22, 1999.

6888

TABLE OF CONTENTS

Page

INTEREST OF AMICUS 1

CONCLUSION 4

TABLE OF AUTHORITIES

Page

Other:

Emma Lazarus, *The New Colossus* 3

No. 99-898

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1999

CITY OF CHICAGO, *et al.*,

Petitioner,

v.

DONNA E. SHALALA, *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

BRIEF OF AMICUS CURIAE CITY OF NEW YORK IN SUPPORT OF THE PETITION

INTEREST OF AMICUS

The City of New York ("City") submits this brief as amicus curiae in support of the petition for a writ of certiorari filed by the City of Chicago. As reviewed herein, the Welfare Reform Act has direct and profound adverse

social and fiscal impacts on the City that it should not be required to endure without review by this Court of the significant questions raised by the petition regarding the constitutionality of the Act.

All persons who, but for the Act, would be eligible for Supplemental Security Income ("SSI") are indigent. In the absence of SSI, these needy individuals may be eligible for public assistance benefits funded, in part, by the City, such as Safety Net (formerly, Home Relief). The fiscal impact of the alienage provisions of the Welfare Reform Act on the City are thus significant. At present, approximately 2200 legal aliens who arrived in this country subsequent to August 22, 1996, are receiving Safety Net benefits in the City. The total annual cost of such benefits is $8.4 million. Because the City contributes 50% of this cost, and nothing to SSI, this additional expenditure is a significant financial and administrative burden.

Moreover, SSI benefits are higher than the Safety Net benefits provided in New York State, and the resulting gap in benefit levels will leave elderly, blind or disabled recipients further below the poverty level. Also, due to their age or infirmity, some legal aliens who would otherwise be eligible for SSI may not undertake the application process for Safety Net. The absence of SSI benefits will thus cause individuals to experience increased poverty and dependence. This, in turn, will likely result in a variety of unquantifiable social costs to the City, including a lack of housing, more demand for emergency food programs and increased public health and safety costs.[1]

---

[1] *See Abreu v. Callahan*, 971 F Supp 799, 805 (SDNY 1997).

The Act has also directly affected the City's budget in other ways. For example, in 1997, the City's concern for, and commitment to, all of its residents, regardless of immigration status, prompted the establishment of a Mayoral Initiative known as Citizenship New York City, the purpose of which is to address the pressing needs of the vulnerable population specifically targeted by the Act. The Initiative works with, and advocates on behalf of, noncitizen lawful permanent residents as they navigate through the intricacies of the naturalization process. Once citizenship is obtained, the person is eligible for, as needed, the higher Federal benefits, SSI and food stamps, thus eliminating dependence on City-funded programs.

The City's allocation of scarce resources reflects difficult choices. The Initiative's start-up costs of $1.5 million and its annual budget of $4.868 million is certainly money that should be used in other parts of the City's budget. The City, however, considers the Initiative to be a necessary antidote to the deleterious and continuing impacts of the Act on both the affected class of permanent residents and on the City and its treasury.

Historically, the City has been the "golden door" to "the homeless, tempest-tossed ... masses yearning to breathe free." Emma Lazarus, *The New Colossus*. Federal, state and local welfare systems have traditionally combined to provide these new, legal residents with minimal levels of comfort and to help those who are able to become productive members of society. However, as the petition makes clear, the Welfare Reform Act is really about shifting the financial and social burdens of immigration to state and local governments, a shift that, in light of its large immigrant population, is particularly and unfairly onerous to the City.

Echoing the petition, the City respectfully submits that the Federal government should not be permitted to escape its fair share of the economic burdens that result when it admits individuals to lawful permanent residence in this country. The severe impacts of the Welfare Reform Act on the fiscal and social integrity of the City of New York are a direct result of the Act's violation of the equal protection guarantee of the Fifth Amendment.

CONCLUSION

THE CITY OF CHICAGO'S PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT SHOULD BE GRANTED.

Dated: New York, New York
December 22, 1999

Respectfully submitted,

MICHAEL D. HESS,
Corporation Counsel of the
City of New York,
Attorney for Amicus Curiae
City of New York.

LEONARD J. KOERNER,*
RONALD E. STERNBERG,
of Counsel.
*Counsel of Record